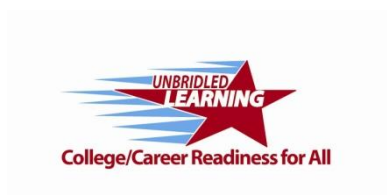


# **SBDM Personnel Selection Guidebook**



**Kentucky Department of Education**



## Purpose of the KDE SBDM Personnel Guide

The purpose of this guide is to provide a resource to School Based Decision Making Councils during personnel selection. This handbook is meant to be a supplement to the Kentucky Department of Education (KDE) SBDM Coordinator's Handbook and is not meant to replace or modify it. All questions regarding SBDM and Personnel Selection should be directed to the district SBDM coordinator, the district human resources department, or to KDE.

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## **SBDM Personnel Decisions**

Some of the most important decisions that a school council will make or consider are issues regarding personnel.

The responsibilities of a school council in the area of personnel include:

- Determining the number of persons to be employed in each job classification in the school;
- Adopting policy and procedures to assist the school council with consultation in the selection of personnel, including, but not limited to, meetings, timelines, interviews, review of written applications, review of references and situations in which members of the school council are not available for consultation;
- Being consulted by the principal prior to him or her making a recommendation on filling vacancies in all certified and classified instructional positions.

Other requirements that school councils need to be aware of include the following:

- The school council does not have the authority to recommend transfers or dismissals [KRS 160.345(2)(f)].
- The school council makes policy determining the assignment of instructional and non-instructional staff time in the school [KRS 160.345(2)(i)2].
- OAG 97-7 defines vacancy and requires the posting of every certified position vacancy.
- Seniority rights are given to tenured teachers in situations of reduction in force [KRS 161.800].
- A notice of nonrenewal of limited contracts must be issued by May 15 [KRS 161.750(2)].
- A notice of salary for current staff must be issued no later than 45 days before the first student attendance day of the succeeding school year or June 15 [KRS 161.760(1)].
- A notice of reduction in duties and salary is required 90 days prior to the first student attendance day of the succeeding school year [KRS 161.760(3)].

## **Personnel Selection Guidance From the SBDM Statute (KRS 160.345)**

**KRS 160.345(2)(f):** After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school.

**KRS 160.345(2)(h)1:** Personnel decisions at the school level shall be as follows: From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification.

**KRS 160.345(2)(h)5:** An applicant subsequently employed shall provide evidence that he or she is certified prior to assuming the duties of a position.

**KRS 160.345(2)(i)11:** The school council shall adopt a policy to be implemented by the principal in the following additional areas: Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation.

## **Personnel Selection Guidance From Other Kentucky Statutes**

**KRS 158.102(2)(a):** Schools shall employ a school media librarian to organize, equip, and manage the operations of the school media library. The school media librarian shall hold the appropriate certificate of legal qualifications. A certified school media librarian may be employed to serve two (2) or more schools in a school district with the consent of the school councils.

**KRS 160.380(1)(c):** Relative means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

**KRS 160.380(1)(d):** Vacancy means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

**KRS 160.380(2)(b):** When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the

position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

**KRS 160.380(2)(c):** When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

**KRS 160.380(2)(d):** When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

**KRS 161.011(5):** Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

- a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.
- b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

## **IMPLICATIONS FROM THE STATUTES DURING PERSONNEL SELECTION**

The Kentucky Department of Education has identified the following implications for personnel actions in all applicable statutes, regulations and Attorney General's Opinions

Certified vacancies in positions at SBDM schools should be posted immediately, regardless of when the vacancy occurs.

The superintendent should inform the principal at a school of vacancies immediately so that the principal may act in a timely fashion. Likewise, principals should make personnel selection decisions in a timely fashion.

When a vacancy occurs in a certified or classified position at a school that has implemented school-based decision making, the terms of KRS 160.345 apply so that the principal is to select the person to fill the position in consultation with the school council.

The superintendent submits a list of qualified applicants for the vacant certified or classified position to the principal. After following the consultation policy and consulting the council, the principal selects the particular certified and classified persons to fill the vacancies in the schools, and those decisions are binding on the superintendent.

The superintendent must conduct a search to locate minority candidates for vacancies.

Superintendents have authority to select persons to fill districtwide positions (e.g., itinerant teachers, districtwide instructional coaches), even if the position includes assignments at SBDM schools.

When circumstances warrant a waiver of the 30-day posting requirement but a desirable qualified applicant has not been identified, regardless of whether the position is at a SBDM or non-SBDM school, it is recommended that the superintendent proceed to post the vacancy. When a desirable qualified applicant is identified, the superintendent may want to submit to the Department of Education a request for waiver of the 30-day posting requirement and for approval to hire the applicant.

Superintendents may transfer or assign staff members for whom there is a contractual obligation to a SBDM school without allowing for principal choice or the school council consultation process when the only position available is at a SBDM school and one of the following circumstances exists:

- When a reduction in force exists (e.g., decrease in enrollment, closing of a school, territorial changes affecting the district), and it becomes necessary to locate a position for a certified staff member because of teacher seniority rights under reduction in force district policy. With reduction in force because of a decline in enrollment, school councils must accept necessary transfers, but first the identity of each vacancy and the certification requirements should be known. In that case, the 30-day posting provision should precede placement in the vacancies based on seniority.
- When the superintendent must honor an employer/employee-bargained contract on transfers.
- When a transfer is required pursuant to a court-ordered districtwide affirmative action plan, whether voluntary or involuntary.
- When an employee is returning from a leave of absence.
- When a court or teacher tribunal has ordered the reinstatement of a former employee.
- When an administrator for whom there is a contractual obligation has been demoted and must

be assigned within his or her area(s) of certification.

- When an employee (certified or classified) under contract must be placed to avoid a breach of contract.
- When a principal has been hired and his or her spouse needs to be transferred out of the school to avoid a nepotism violation and the only position available for which the spouse is certified is at an SBDM school.

The Kentucky statutes do not require posting of vacancies for classified positions. Classified employees in schools are subject to the written policies of the local board of education and all other requirements set forth in KRS 161.011. However, at the school level, all classified positions are filled through consultation with the council as per its consultation policy, with final selection by the principal.

**SAMPLE SBDM CONSULTATION POLICY**  
**Kentucky Middle School Consultation Policy**  
**[KRS 160.345(2)(1)11]**

**Purpose:**

The Consultation Policy of Kentucky Middle School ensures that the selection of staff are highly effective, are highly qualified (based on state and federal definitions) and meet the needs of the student population.

**Procedures:**

Vacancy shall be defined as:

1. A position that did not previously exist but which can now be funded;
2. A position previously held by an employee who has retired or resigned; or
3. A position held by an employee who has indicated in writing that he or she will retire or resign at the conclusion of the current school year.

Highly Qualified Teacher shall be defined as a teacher who:

1. Hold at least a bachelor's degree;
2. Hold full Kentucky certification or statement of eligibility; and
3. Demonstrates competency in each of the core academic subjects taught.

Highly Qualified Paraeducator (Paraprofessional) shall be defined as an instructional assistant who:

- Has completed two years of study at an institution of higher education;
- Holds an associate (or higher) degree; or
- Has passed the Kentucky Paraeducator Assessment exam.

Notification of Vacancy:

The school council shall be consulted by the principal on all certified and classified vacancies that occur at the school. When a staff vacancy has been posted, the principal

shall include “consultation with the school council for the (position title) vacancy” on the agenda of the next regular or special meeting of the council.

Timeline:

The principal and school council shall meet the following timeline for filling vacancies:

- Once a vacancy is determined, the principal, along with one parent member and one teacher member chosen by the school council, shall serve as an ad hoc interview committee. The ad hoc interview committee shall meet within one week of selection to develop a set of criteria for strong candidates and a list of interview questions to be asked of each applicant.
- The committee shall reconvene and review applications and supporting materials for each qualified applicant. Once the vacancy has completed the 30-day required posting, the committee shall reconvene and make a final selection of, first, candidates who exhibit the characteristics in the developed criteria and then, second, are highly qualified. Any applicant who does not meet the criteria or is not highly qualified shall not be considered for an interview. An interview schedule shall be developed by the ad hoc committee so that all committee members are present for all interviews. The principal shall contact the candidates and schedule the interviews.
- All candidates interviewed will be asked the developed questions in the same order. The principal shall follow up within 3 business days with reference checks, as needed.
- The ad hoc committee shall reconvene within one week of the final interview to review the candidates, discuss issues from reference checks and prioritize candidates.
- The school council shall consider the ad hoc committee and principal recommendations and provide its thoughts on the candidates to the principal on whom to select to fill the vacancy. This consultation will occur in closed session.
- The principal shall make a selection of a qualified applicant to fill the vacancy and shall report this selection to the superintendent, who will complete the hiring process.
- At the next regular or special called meeting, the principal will inform the school council as to the candidate they selected.

If a quorum of the members of the school council is not available for the purpose of conducting consultation in the filling of a vacancy during a special called meeting for the purpose of consultation, the principal shall conduct consultation with the council members who can attend. The timeline may also be amended with school council approval in order to fill a vacancy during times in which continuation of instructional services may be affected, and a waiver of the 30-day posting may be requested from the Kentucky Department of Education.

**Evaluation:**



Annually, the school council shall review the policy and timeline and make revisions as necessary to ensure highly qualified and highly effective teachers are recruited and retained at the school. Any revisions to the policy shall be made and approved prior to March 31.

## **Further SBDM Personnel-Related Information**

### **Extra-Duty Assignments and Coaching Positions**

When extra duties are merely additional assignments to an existing position in that school, posting of the extra-duty assignment is not required. However, when a full-time position is either created or vacant, if the extra-duty assignments are considered attached to the position, they should be posted as part of the position. Athletic coaches' positions are to be treated in the same manner [OAG 95-10].

### **Transfers in Districts with Bargained Contracts**

Any request for a transfer must conform to any employee-employer bargained contract that is in effect.

### **Staff vacancies in itinerant teaching positions**

For the purpose of filling vacancies, itinerant positions serving multiple schools are considered districtwide positions and are filled by the superintendent. These itinerant positions are not included in the school's allocation received on May 1. Any *part-time* or *half-time* positions that are included in the school council's allocation on May 1 must be filled by the consultation and principal choice process.

### **Staff vacancies in categorical programs**

Although categorical program funds are excluded from the annual May 1 allocation to school councils, the school council's policies and the school council's responsibility to be consulted in the filling of vacancies apply to all non-itinerant categorical program staff assigned to the school, including school-based instructional coaches.

### **Understanding KRS 157.360**

After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. As outlined in KRS 157.360(5)(a), base funding levels include:

24:1 for primary grades

28:1 for grade 4

29:1 for grades 5 and 6

31:1 for grades 7 to 12

An addition to these base levels is a requirement for secondary schools that includes a maximum of 150 per-pupil hours [KRS 157.360(5)(b)].

Two parts of the staffing base funding levels can cause confusion for school council members and others in the school community: base levels for primary grades and the 150 per-pupil hours for secondary schools. Note that school councils are not bound by these maximum class size limits once the allocations are received by the school. School councils determine, within the number of staff allocated, the job classifications for each of the positions.

### Primary Program Allocations

Primary school is defined in [KRS 158.031](#) as being multi-aged groupings. To this effect, the allocation of staff for primary school is based on the total number of students included in an enrollment from the time they enter school (i.e., kindergarten) to the time they exit (i.e., grade 3). Therefore, as a school district determines the staff for the primary grades at an elementary school, the school district will add the total number of students in the primary grades as a whole and then divide by a maximum of 24 (number can be lower based on district choice in the allocation formula) to get the number of teacher positions. For elementary schools that have determined that they will have a graded primary program, this may mean that one grade may have more than 24 students per classroom teacher and another grade may have less than 24 students per classroom teacher.

### Secondary School Allocations

When KRS 157.360 was enacted, most secondary schools operated on a six-period day within semester schedules. Scheduling concepts such as alternative models and block schedules, including trimester schedules, were not factored into legislation. Once the base level funding language is added into the staffing allocation formula, class size loads for middle and secondary school classroom teachers cannot exceed the equivalent of 150 pupil hours per day. This means that each classroom teacher who is allocated to grades 7-12 cannot have more than 150 per-pupil hours. One-hundred-fifty per-pupil hours of instruction during a six-hour school day would yield a ratio of 25:1. Again, school councils are not bound by these maximum class size limits once the allocations are received by the school. School councils determine, within the number of staff allocated, the job classifications for each of the positions.

## **DETERMINING THE NUMBER OF PERSONS IN EACH JOB CLASSIFICATION**

Funds that are allocated for personnel are based on the local board of education's staffing policy or guidelines. However, most funds are already committed to the salaries and benefits of existing staff. Once school councils are notified of those funds, each council decides how many teachers, counselors and instructional assistants the school will have for the next year. Each school must be allocated and retain the positions of an instructional leader (i.e., principal) and a media librarian. Some school councils also are allocated secretarial and custodial staff; however, these positions can be at the district's discretion. The school council may choose any configuration that fits within the funds available for the school. The Kentucky Department of Education (KDE) recommends

that school councils focus those decisions on the school improvement plan to reflect a systematic understanding of the school's needs and goals.

The School Council Allocation Formula regulation [702 KAR 3:246] requires each local school board to notify school councils by May 1 of the funds available for personnel at the school. These funds will not include personnel that provide non-school-based districtwide services, extended employment, itinerants or funds for personnel from categorical programs (e.g., Title I, IDEA, Title II).

The personnel allocation to schools cannot be reduced after May 1 unless one of the following conditions occurs:

- A certified vacancy is filled with an employee that requires less than the 95 percent average salary allocated. If this occurs, the difference reverts to the district general fund for possible reallocation under Section 7.
- A classified vacancy is filled with an employee that requires less than the 95 percent average salary allocated. If this occurs, the difference reverts to the district general fund for possible reallocation under Section 7.
- The district tentative budget adopted in May does not hold in reserve at least the required amount set by KRS 160.470.
- A reduction occurs in the per-pupil amount of state and local revenue.
- An adjustment is made in personnel funds by Sept. 15 based on enrollment figures or increase in salary schedule.
- A district is at risk of deficit spending forbidden by law, and cuts in school-based staff are identified as the only reasonable way to prevent that deficit.

## **Frequently Asked Questions**

### **What are the May 1 allocations?**

School districts, by regulation, are required to provide school councils a tentative allocation of funds for the next budget year by March 1 each year, with a final allocation by May 1. These numbers may increase or decrease between March 1 and May 1 depending on final counts. The staffing allocation includes the number of positions the school will be given. These regulatory allocations include all certified and classified positions that are determined by the base funding formula, which includes maximum class caps. Additionally, the allocation contains instructional funds for the school.

### **What is the maximum class size formula?**

The maximum class size formula is set in Kentucky statute. Each school is allocated staff based on the following ratios:

- Primary: 24:1
- Grade 4: 28:1
- Grades 5 and 6: 29:1

- Grades 7 through 12: 31:1; however, a teacher cannot have more than 150 pupil hours in a day.
- Kindergarten instructional assistants: 24:1
- Instructional leader (principal)
- Library media specialist (may be shared between 2 or more schools)

### **Can a school council waive maximum class size?**

Any school council can waive the maximum class size once it has received its staffing allocation from the district based on the statutory class size formula. The term in the statute, *except for those schools which have implemented school-based decision making*, can be a bit confusing for school councils. The district fund positions; the school council determines the job classification for each of those positions.

Class cap size is most questioned when it refers to primary grades. Due to Kentucky's Primary Program statute, primary grades are considered ungraded. Allocations from a district are based on the premise of an ungraded program. If a school council decides to have a graded program (i.e., kindergarten, grade 1, grade 2 and grade 3), then classes may appear to be over cap size when in reality they are not.

### **What can the council decide and not decide about positions in the school?**

Once the number of positions is received from the district office, the school council determines the number of persons to be employed in each job classification. The school council should look at its student population changes and needs assessment each year to determine the number of spaces, not persons in the position, needed in each job classification. School councils cannot recommend transfers or dismissals.

If the school council determines that it does not need the total number of positions allocated by the district's staffing allocation formula, it may ask the district to redistribute those positions. If so, the district would distribute 95 percent of the average certified teacher's salary to the school in lieu of a certified position. The remainder of the money would revert to the district general fund for possible reallocation.

A school council may also ask that a position be created by the district using the school council allocation funds commonly referred as Section 6 monies. If the council has the funds for a position, the district may grant the request at the discretion of the district.

### **When can school councils interview for staff positions?**

The process for interviewing teacher candidates is established in the school council's consultation policy. The school council (or a committee, if called for in the policy) can begin the interviewing process prior to the end of the 30-day posting. However, applications must be accepted through the 30-day period and a decision cannot be made until the posting has expired.

### **Do school councils hire teachers?**

No, school councils are consulted concerning teacher vacancies. The principal selects the candidate to fill the teacher vacancy and the local central office completes the hiring process, which includes all background checks, certification verification and the issuing of contracts.